

UNITED STATES PATENT AND TRADEMARK OFFICE

PRE APPEAL BRIEF REQUEST FOR REVIEW

APPLICANT(S)	Vukovic, Ivan et al.	GROUP ART UNIT:	2616
APPLN. NO.:	10/071,475	EXAMINER:	Duong, Christine
FILED:	February 7, 2002	CASE NO.:	CE08733R
		CONFIRMATION NO.:	1921
TITLE:	NEGATIVE ACKNOWLEDGMENT (NAK) SUPPRESSION		

Dear Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated in the paragraphs below.

Claims 7-8 stand rejected under 35 U.S.C. 102(b) as being allegedly anticipated by Matsumoto et al. (US Patent No. 5,414,717). Claims 1-6 and 9 stand rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Matsumoto et al. in view of Shiroshita et al. (US Patent No. 5,892,894). The claims on appeal are claims 1-9.

There are no outstanding or proposed claim amendments or other outstanding papers associated with this application. In view of the comments below, Applicants respectfully submit that the Office Action rejection includes clear errors because at least one limitation is not met by the references cited and the Examiner provides no art as teaching or suggesting the limitation(s). Applicants request that the Panel reconsider the present application including claims 1 - 9 and withdraw the rejection of these claims or alternatively reopen prosecution on the merits.

Claim 1 is an independent claim that specifically recites:

A method of negative acknowledgment (NAK) suppression, the method comprising the steps of:

determining that a NAK needs to be transmitted over a channel;

determining if data or other channel information currently needs to be transmitted over the channel; and

transmitting the NAK if data and other channel information does not need to be transmitted over the channel, otherwise buffering the NAK.

Claim 7 is an independent claim that specifically recites:

An apparatus comprising:

a buffer storing NAKs; and

logic circuitry coupled to the buffer, the logic circuitry having a transmission status of a transmitter as an input and outputting instructions for a NAK generator to generate NAKs based on the transmission status of the transmitter.

Claim 1 is directed to a method of negative acknowledgment (NAK) suppression. The method first determines that a NAK needs to be transmitted over a channel. Next, the method determines if data or other channel information currently needs to be transmitted over the channel. The method then transmits the NAK if data and other channel information does not need to be transmitted over the channel. Otherwise, the method buffers the NAK. Page 4 of the Office Action admits that Matsumoto et al. fails to disclose the claim 1 limitation of "transmitting the NAK if data and other channel information does not need to be transmitted over the channel". For this teaching, the Office action cites Shiroshita et al. In particular, the Office Action states that Shiroshita et al teaches "the server 100 notifies the terminal 300-3 about the fact that it is in a poor performance state and the data transmission is interrupted, by means of the poor performance notification (step S203) (Shiroshita et al. column 7, lines 15-18). The Office action goes on to state that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to transmit the NAK if data and other channel information does not need to be

transmitted over the channel because “the server 100 carries out the re-transmission of the unreceived data with respect to the terminal 300-3 which is in the poor performance state (step S205).

Applicant fails to see how Shiroshita combined with Matsumoto render Applicants' claim 1 limitation of “transmitting the NAK if data and other channel information does not need to be transmitted over the channel, otherwise buffering the NAK” obvious. Shiroshita describes a communication system and method in which a server communicates with a plurality of nodes (terminals) in a broadcast-multicast fashion. The server transmits data -- original and retransmissions -- to the plurality of terminals. If the server does not receive a positive acknowledgment after transmitting data to a terminal, the server judges the terminal as a poor performance terminal. The server notifies the terminal that it is a poor performance terminal and that data transmission will be interrupted by means of a poor performance notification. The server then continues communication (data transmission, re-transmission, acknowledge receiving, etc. with respect to normal terminals (terminals not in poor performance state). When data transmission with respect to normal terminals is completed, the server carries out the retransmission of the unreceived data with respect to the terminal in the poor performance state.

Thus, Shiroshita teaches that when a terminal is in a poor performance state, data transmission with that terminal is suspended until data transmission is completed with terminals not in a poor performance state. The teachings of Shiroshita have nothing to do with transmitting a NAK over a channel when there is no data or other channel information to transmit over the channel. Shiroshita merely addresses when the server will retransmit data that was not received by the terminal in the poor performance state -- i.e., when data transmission to the normal terminals is completed.

Claim 7 is directed to an apparatus that includes a buffer storing NAKs and logic circuitry coupled to the buffer. The logic circuitry has a transmission status of a transmitter as an input and outputs instructions for a NAK generator to generate NAKs based on the transmission status of the transmitter. Pages 2 and 3 of the office action cite Matsumoto et al. as teaching Appellants claim 7

limitations. In particular, for the teaching of "logic circuitry outputting instructions for a NAK generator to generate NAKs based on the transmission status of the transmitter the office action refers to transmitting buffer (FIG. 1, numeral 3) for storing a transmission data train to be transmitted to a communication terminal and receiving buffer (FIG. 1, numeral 4) for storing a reception data train received from another communication terminal. The transmitting buffer and receiving buffer are controlled by a buffer control circuit 5 so that storing and reading out of the data are carried out. The office action also refers to the RSP control circuit 12 that controls ACK register 13 and the NAK register 14 to transmit RSP (col. 8, lines 17-18). Appellants submit that these teachings of Matsumoto et al. do not read on "logic circuitry having a transmission status of a transmitter as an input and outputting instructions for a NAK generator to generate NAKs based on the transmission status of the transmitter. There is simply no mention in Matsumoto et al. of logic circuitry instructing a NAK generator to generate NAKS based on the transmission status of a transmitter.

Dependent claims 2-6 and 8-9 provide additional novel and non-obvious subject matter. Additionally, Applicants maintain that claims 2-6 and 8-9 are patentable by virtue of dependency on claims 1 and 7, respectively.

In view of the foregoing remarks, it appears claims 1-9 have been erroneously rejected. Accordingly, Applicants respectfully submit that the claims clearly and patentably distinguish over the cited references of record and as such are to be deemed allowable. Applicants request the reconsideration and reexamination of this application and the timely allowance of the pending claims. Although it is not anticipated that any fees are due or payable other than the

separately noted Notice of Appeal fee, the Commissioner is hereby authorized to charge any fees that may be required to Deposit Account No. 50-2117.

SEND CORRESPONDENCE TO:

Motorola, Inc.
Law Department
1303 East Algonquin Road
IL01/3rd Floor
Schaumburg, IL 60196
Customer Number: 22917

Respectfully submitted,

By: /Lalita Pace/

Reg. No.: 39,427

Telephone: 847-538-5855

Fax No.: 847-576-3750